



PATENT
Customer No. 22,852
Attorney Docket No. 08157.0010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Paul GILSON et al.

Application No.: 09/838,545

Filed: April 20, 2001

For: EMBOLIC PROTECTION
SYSTEM

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) Group Art Unit: 3731
)
) Examiner: J. Baxter
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) Confirmation No.: 9270
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO SUPPLEMENTAL ELECTION REQUIREMENT

In a supplemental election requirement dated June 30, 2004, the Examiner required further election under 35 U.S.C. § 121 between three alleged species of engagement elements. In particular, election was required from each of the following three groups:

Group i - guidewire abutment and filter abutment;

Group ii - releasable locking elements; and

Group iii - engagement elements on retrieval catheter.

Applicants do not necessarily agree with the Examiner's characterizations and assertions regarding the allegedly patentably distinct species or Applicants' claims.

Nonetheless, to expedite prosecution of this application, Applicants elect to prosecute subgroups (1) from Group i; subgroup (5) of Group ii; and subgroup (6) from Group iii.

To the extent that Applicants understand the election of species requirement, Applicants

believe that at least claims 1-4, 6-12, 14-25, 27-34, and 68 read on the elected subgroups.

Moreover, contrary to the Examiner's assertion, Applicants submit that at least claims 1-4, 6, 7, 10, 15-18, 20-24, 27-34, and 68 are generic. Applicants understand that upon allowance of a generic claim, any nonelected claims that depend from or otherwise include all of the limitations of such a generic claim will be rejoined and also allowed.

Please grant any further extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 30, 2004

By: 

Roland G. McAndrews
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